

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:20-00130

CHRISTOPHER RYAN CHRISTIAN COUNTS

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion to dismiss the restitution claim in this case. (ECF No. 56). On December 9, 2020, defendant entered a guilty plea to Count Two of the indictment, charging him with possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B) and § 2252A(b)(2). On April 13, 2021, defendant was sentenced to a term of imprisonment of 204 months, a lifetime term of supervised release, and mandatory assessments totaling \$5,100.00.

A Victim Impact Statement from the victim of the "Tara" series was submitted in connection with restitution in this matter. Tara claimed that she was entitled to restitution for unreimbursed expenses in the amount of \$77,867.63. Because defendant requested additional discovery regarding Tara's restitution claim, pursuant to 18 U.S.C. § 3664(d)(5), the court deferred a final determination on restitution and set a hearing for July 8, 2021.

On June 21, 2021, defendant filed a motion to dismiss Tara's claim for restitution. See ECF No. 62. According to defendant, he had yet to receive any additional information or

documentation. In response to defendant's motion, the government informed the court that it had requested additional information from Tara on multiple occasions to no avail. See ECF No. 63. While not speaking directly to defendant's request to dismiss the claim for restitution, the government did inform the court "that it is unable to provide any supporting documentation to the updated request for restitution in the amount of \$77,867.63." Id. Whereupon, the court cancelled the hearing scheduled for July 8, 2021.

Pursuant to 18 U.S.C. § 2259(a), restitution to child pornography victims is mandatory. Furthermore, § 2259(b)(2)(B) requires that such a restitution award be no less than \$3,000.00. For this reason, by no later than **October 27, 2021**, the parties are directed to file with the court a submission on whether defendant's motion to dismiss should be granted or whether the court should order restitution in the amount of \$3,000.00. See United States v. Clemens, 990 F.3d 1127, 1130 (8th Cir. 2021).

The Clerk is further directed to send a copy of this Order to counsel of record and the Probation Office of this court.

IT IS SO ORDERED this 13th day of October, 2021.

ENTER:

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge